

ENTERED

April 15, 2021

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

KELLY DOYLE, *et al.*,

§

Plaintiff,

§

VS.

§ CIVIL ACTION NO. H-20-3633

NATIONSTAR MORTGAGE,

§

Defendant.

§

ORDER

Since the February 5, 2021, scheduling conference in this case, the parties have disputed case-management orders and continuing deadlines, and have filed several related motions. The court clarifies its February 5, 2021, orders and rules on each of the outstanding motions below.

The court granted the Doyles' request to amend their complaint. The complaint is deemed filed as of February 5, 2021, at Docket Entry No. 12-1.

The Doyles' motion to strike, (Docket Entry No. 16), is denied. As the court stated on the record and in the minute entry for the February 2021 hearing, Nationstar was permitted to move to dismiss the second amended complaint, consistent with Federal Rule of Civil Procedure 15(a)(3).

The Doyles also move for contempt based on Nationstar's alleged failure to mediate. Their motion, (Docket Entry No. 17), is denied. Civil contempt requires "(1) that a court order was *in effect*, and (2) that the order required certain conduct by the respondent, and (3) that the respondent failed to comply with the court's order." *In re Bradley*, 588 F.3d 254, 264 (5th Cir.

2009). The current mediation deadline is May 3, 2021. Nationstar has asked to stay the deadline based on its pending motion to dismiss, (Docket Entry No. 16). There is no contempt.

Finally, Nationstar moves for a stay of discovery and a stay of the mediation deadline pending the court's decision on its motion to dismiss. (Docket Entry Nos. 20, 23). A stay of discovery and a continuance of the mediation deadline are appropriate based on the potentially dispositive motion to dismiss. The motions for stay, (Docket Entry Nos. 20, 23), are granted. Discovery and mediation are stayed until after June 1, 2021. The court will reset the deadlines, as appropriate, after ruling on Nationstar's motion to dismiss.

SIGNED on April 14, 2021, at Houston, Texas.



Lee H. Rosenthal
Chief United States District Judge